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November 29, 1999

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-A325
Washington, DC 20554

RE: FCC Docket No. 96-262

Dear Ms. Salas:

Enclosed are the original and four copies of the reply comments of GVNW Consulting, Inc., in response to the Commission's Further Notice of Proposed Rulemaking (FNPRM) in CC Docket Nos. 96-262, 94-1 and 98-157.

Several attempts were made to electronically file these reply comments. However, the FCC server was down. Attempts were made after 3PM Eastern Time to no avail. GVNW requests that these reply comments be accepted a day late based on the problems through electronic means.

Also enclosed is one copy of our reply comments to be stamped and returned in the enclosed self addressed stamped envelope.

Any questions regarding this filing may be directed to me at (503) 612-4400.

Sincerely,

Jeffry H. Smith
Consulting Manager

DOCKET FILE COPY ORIGINAL

Federal Communications Commission
Washington, D.C.

January 10, 2000

GVNW Consulting, Inc.
8050 SW Warm Springs Street
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P.O. Box 2330
Tulatin, OR 97062

Re: Acceptance of Comments As Timely Filed in (Docket No. 96-262)

The Office of the Secretary has received your request for acceptance of your pleading in the above-referenced proceeding as timely filed due to operational problems with the Electronic Comment Filing System (ECFS). Pursuant to 47 C.F.R. Section 0.231(I), the Secretary has reviewed your request and verified your assertions. After considering arguments, the Secretary has determined that this pleading will be accepted as timely filed. If we can be of further assistance, please contact our office.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
for Magalie Roman Salas
Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
	)	
Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers	)	CCB/CPD File No. 98-63
	)	
	)	
Petition of U S West Communications, Inc. For Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA	)	CC Docket No. 98-157
	)	

REPLY COMMENTS OF GVNW CONSULTING, INC.

Introduction and Background

GVNW Consulting, Inc. respectfully submits these reply comments in response to the FCC's Further Notice of Proposed Rulemaking (FNPRM) in the above-captioned proceedings. GVNW has reviewed the comments filed in this proceeding by the various parties and offers these reply comments that represent the interests of over 100 rural local exchange carriers that have a very real interest in the issues at debate in this FNPRM.

We recognize that the Commission has requested this set of comments and replies ostensibly to address the AT&T petition in which AT&T seeks the right to not purchase

switched access services under tariff from various *competitive local exchange carriers (CLEC).*[1]

While we acknowledge that the AT&T petition was explicit in its statement that it does not seek the ability to decline the access services of *incumbent local exchange carriers (ILEC)*, the FCC has expanded the scope of this FNPRM to address this issue. With its request for comment as to the ramifications should interexchange carriers (IXCs) be allowed to refuse access services of ILECs as well, the Commission has brought the entire industry into this debate.

The short answer is that if IXCs are able to selectively decline access charges rendered by carriers, the customer whose call is not completed is the real loser. The universal service mandate of the Telecommunications Act of 1996 will not be realized if IXCs are permitted to refuse to connect calls through no fault of the end user customer.

Public Policy that permits IXCs to refuse any local carrier's terminating access services will serve to diminish the reliability and integrity of the network from the perspective of the end-user customer

We concur with the comments of OPASTCO: *If IXCs were allowed to decline the terminating access services of any local carrier – whether ILEC or CLEC – customers' calls would not always be completed for reasons out of their control.*

We concur that IXCs should not be relieved of the responsibility to meet end user expectations that all long distance calls will be properly terminated. If this occurs, the reliability of the public switched network is compromised.

[1] Petition for Declaratory Ruling filed by AT&T regarding Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Services, October 23, 1998.

The calling party should not be thrust into the middle of a regulatory dispute between two parties over which they exert no influence and should not be disadvantaged by an IXC's perception of what reasonable costs may be. The obligations of common carriers should not be lost in the battle for competitive choice. The Commission will add to the level of customer confusion if IXCs are permitted to arbitrarily select which access charges they will pay.

Adequate procedures exist for IXCs to remedy situations where public policy makers find access charges to be unreasonable

In the case that an IXC believes that a CLEC's access rates are excessive, they should avail themselves of the existing complaint process. However, during such an investigation, customer calls should continue to be completed.

While we would expect that the complaint process that currently exists under Section 208 would adequately address the issue, there may be some merit to the suggestions of some of the parties to this docket to utilize an expedited schedule for such complaints (e.g., US West at 26, MCI reference to "rocket docket" at 18).

We place on the record in this proceeding the citation the Commission used in the 1995 Elkhart Telephone Co. v. Southwestern Bell case:

> . . . carriers who are requested to provide services should make all efforts to do so, such as providing them under protest pending the resolution of complaints, petitions, or litigation, rather than refusing to meet a questionable obligation until after the complaint or litigation is resolved. Those who choose the course of non-compliance are on notice that they will be acting at their own peril, should the question of the legitimacy of their refusal to meet their common carrier obligations be decided against them.[2]

[2] 11 FCC Rcd 1056-1057, quoting from Hawaiian Telephone Company, 78 FCC 2d 1062, 1065 (1980).

It is not reasonable public policy to permit IXCs to abdicate their common carrier obligations simply because they independently assert that a certain access rate is at a level that they believe to be too high.

Universal service in rural areas will be deleteriously impacted if IXCs may decline the originating access services of rural ILECs

In many rural areas where there is only one exchange carrier, permitting an IXC to decline originating access services is the functional equivalent to abandoning service to the customers in that serving area. This would not comport to the universal service principles as found in the Telecommunications Act of 1996 that rural areas should have access comparable to urban areas.

Commission rule and not IXC desire should determine exit strategies in rural markets served by only one carrier. The Commission should require IXCs to withdraw service only upon filing an application for discontinuance. Such procedures are available for IXCs through Section 63.71 of the Commission's rules. Section 63.71 provides that the Commission will not permit any discontinuance, reduction, or impairment of service if it is shown that customers will be unable to receive service or a reasonable alternative from another carrier. In some rural areas, there would not be a reasonable alternative available.

Respectfully submitted,
By: _____
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